IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO. 1602 of 1999

Between:

1 K.RaghuRam S/o. Govinda Swamy, age 32 years,
R/o.Goindapalem Village, Puttur Post & Mandal Chittoor Dist.
2 A.R.Bhaskar S/o.A.Ramanadham, age 38 years,
R/o. Mittapalluru, K.M.Agraharam Puttu Mandal , Chittoor Dist.
3 Y.Balasubramanyam S/o.Govinda Reddy, age 30 years,
R/o.Mittapalluru , K.M.Agraharam , Puttur Mandal Chittoor Dist.
4 P.Sudhakar S/o.Subbarayadu, age 34 years,
R/o.18-1-658 , Bhavaninagar , Tirupathi Chittoor Dist.
5 K.Raghavendra Rao S/o.K.M.Gopinadha Rao, age 32 years,
R/o.27-10 Saibaba Colony , Puttur Chittoor Dist.

..... PETITIONERS

AND

1 The Superintending Engg , Operation APSEB
Bhavani Nagar, Tirupathi , Chittoor Dist ,.
2 The Chief Engg/APSEB, Nellore Zone, Nellore Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of Writ of Mandamus , declaring the proceedings of the 1st respondent issued in Letter Nos.(1) SE.O.TPT.PO.ADM.UL FSF.D.No. 57 , Dt 11-1-99 (2) LR.No.SE.O.TPT.PO.ADM.UL.FSF D.No. 58 Dt.11-1-99 (3) LR.No.SE.O.TPT.PO.ADM.UL.FSF D.No.61 Dt: 11-1-99 (4) LR.No.SE.O.TPT.PO.ADM.UL.FSF D.No.62 Dt: 11-1-99 and (5) LR.No.SE.O.TPT.PO.ADM.UL.FSF D.No.65 Dt: 11-1-99 to the petitioners respectively as illegal , arbitrary and violative of principles of Natural Justice and Articles 14 & 16 of the Constitution of India and consequently direct the respondents to absorb the petitioners in the Board forthwith.

Counsel for the Petitioner: MR.M.SUBBA REDDY
Counsel for the Respondents: MR.SAMINENI KISHORE

The Court made the following :

O R D E R

Initially, the writ petition was filed by five petitioners seeking to quash the various orders issued against them rejecting their case for absorption in the service of the Andhra Pradesh State Electricity Board from the category of casual workers. However, the cases of the petitioners 1, 4 and 5 were considered during the pendency of the writ petition. Therefore, they have withdrawn the writ petition and this Court dismissed the writ petition as withdrawn against petitioner Nos. 1, 4 and 5 by an order, dated 22.07.2003. Thus, the writ petition survives only in respect of the petitioners 2 and 3.

It is the case of the petitioners that they have passed Intermediate and worked in the Electricity Revenue Office. The second petitioner had put in 144 days and third petitioner had put in 547 days service. Earlier they have filed Writ Petition Nos. 32843 of 1997 and 26349 of 1997 and the said writ petitions were disposed of on 10.12.1997 and 16.10.1997 respectively directing the respondents to consider the case of the petitioners in accordance with B.P.Ms.Nos. 36 and 37, dated 18.05.1997. Through the impugned proceedings dated 11.1.1999 the case of the petitioners was rejected. Insofar as the 2nd petitioner is concerned it is stated that he has not worked under a licensed contractor. Therefore, his case for appointment as Record Assistant was rejected. Whereas, in-so-far as the 3rd petitioner is concerned, it was rejected on the ground that he was not engaged as casual labourer and no records to the effect that he worked as casual labourer were produced by him.

The learned counsel for the petitioners strenuously contenddc that whether the question of employer (contractor) of the 2nd petitioner was holding a license as required under the Contract Abolition Regulation Act, 1970, or not is of no consequence. It has to be seen whether the said contractor was engaged by the respondents and whether the 2nd petitioner was engaged by the contractor for executing the contract work with the respondents. The respondents have simply

proceeded on the footing that the contractor under whom the 2nd petitioner worked had no licence to execute the works. Such a stand taken by the respondents is most unreasonable. The case of the 2nd petitioner ought to have been considered irrespective of the fact whether he was engaged by the licensed contractor or unlicensed contractor. The only relevant factor respondents ought to have taken into consideration was whether the Contractor engaged by them and in turn whether such contractor had engaged the 2nd petitioner for the execution of the A.P.S.E.B. works. The order passed rejecting the case of 2nd petitioner does not indicate any such exercise was being made by the respondents.

Insofar as the 3rd petitioner is concerned, his case was rejected stating that he was not engaged as casual labourer and no records to this effect were produced by him. It is the categorical assertion made by the 3rd petitioner that he worked under a particular contractor and he has produced a certificate issued by the said contractor. In fact, according to the 3rd petitioner, he has produced a certificate issued by the very Board showing the number of days he worked in the Board and the service certificate which clearly goes to show that he worked as casual labourer and he is also eligible for being absorbed on regular basis in the Board.

Though no counter is filed, the learned counsel for the respondents strenuously contended that the orders passed by the Board are valid and does not suffer from any infirmity requiring interference of this Court. It is also stated that since the petitioners have not satisfied the criteria laid down in B.P.Ms. Nos. 36 and 37, their cases were rejected. Of course, the cases of the petitioners 1, 4 and 5 were also rejected on the same grounds, but nevertheless their cases were considered during the pendency of the writ petition and they were appointed as L.D.Cs.

Now the learned counsel for the respondents placed a letter, dated 08.12.2004, addressed to the learned Standing Counsel for respondents from the Superintending Engineer (Operation), APSPDCL, Tirupati. Wherein it is stated that in respect of two other candidates (petitioners 2 and 3 herein) they have not been qualified for the post of L.D.Cs since they are not graduates which is the required qualification, further they could not be selected against the post of Junior Lineman since 50% posts earmarked for selection have already been filled up by merit, keeping in view of the Rule of Reservation. At one breath, it is the contention of the Board that the petitioners are not eligible since the Contractor, who engaged 2nd

petitioner, was not having valid license and 3rd petitioner has not produced any proof of having worked with A.P.S.E.B. and in the present letter dated 08.12.2004 it is stated that they were not graduates and as such they were not selected for the posts of L.D.Cs and they could not be selected for the posts of Junior Linemen since 50% posts earmarked for selection have already been filled up by merit, keeping in view of the Rule of Reservation. This itself shows that the petitioners are eligible for being absorbed into the service of the Board as per B.P. Ms. Nos. 36 and 37, dated 18.05.1997.

In view of the above, I am of the considered opinion that the respondents have not considered the case of the petitioners properly, in pursuance of the directions issued by this Court earlier and just passed some orders without looking into the records. When they have reconsidered it, they have realized that the petitioners were engaged by the Board itself and again their cases were rejected on the ground that they do not have qualifications and the posts were already filled up. Therefore, the impugned proceedings are liable to be set aside and accordingly set aside and the respondents are directed to consider the case of the petitioners for any suitable posts in the service of the Board as per B.P.Ms. Nos. 36 and 37, dated 18.05.1997 and pass appropriate orders within a period of three months from the date of receipt of this order.

Accordingly, the writ petition is allowed. No order as to costs.

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C.V. RAMULU, J

5th July, 2005

vp

That Rule Nisi has been made absolute as above. .

Witness the Hon'ble Acting Chief Justice Sri Bilal Nazki

On the Tuesday the Fifth day of July, two thousand and five

Sd/-

ASST. REGISTRAR

//TRUE COPY//

sd/-

SECTION OFFICER

To

1. The Superintending Engineer, Operation, A.P.S.E.B. Bhavani Nagar, Tirupathi, Chittoor District,
2. The Chief Engineer, A.P.S.E.B. Nellore Zone, Nellore District
3. 2 C.D. copies.